



House of Representatives

File No. 868

General Assembly

January Session, 2013

(Reprint of File No. 742)

Substitute House Bill No. 6699
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 24, 2013

AN ACT CONCERNING PRETRIAL DIVERSIONARY PROGRAMS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-56i of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) There is established a pretrial drug education and community
4 service program for persons charged with a violation of section
5 21a-267, [or] 21a-279 or 21a-279a. The drug education and community
6 service program shall include a [ten-session drug intervention] fifteen-
7 week drug education program, a fifteen-session drug intervention
8 program and a substance abuse treatment program of not less than
9 fifteen sessions, and the performance of community service.

10 (b) Upon application by any such person for participation in such
11 program and payment to the court of an application fee of one
12 hundred dollars and a nonrefundable evaluation fee of one hundred
13 fifty dollars, the court shall, but only as to the public, order the court
14 file sealed. [provided such person states under oath, in open court or
15 before any person designated by the clerk and duly authorized to

16 administer oaths, under penalties of perjury, that such person has
17 never had such program invoked in such person's behalf.] A person
18 shall be ineligible for participation in such pretrial drug education and
19 community service program if such person has twice previously
20 participated in (1) the [eight-session, ten-session or fifteen-session]
21 pretrial drug education program [, or substance abuse treatment

22 program] established under the provisions of this section [or] in effect
23 prior to October 1, 2013, (2) the [pretrial] community service labor
24 program established under section 53a-39c, as amended by this act, (3)
25 the drug education and community service program established under
26 this section, or (4) any of such programs, except that the court may
27 allow a person who has twice previously participated in such
28 programs to participate in the pretrial drug education and community
29 service program one additional time, for good cause shown. The
30 evaluation and application fee imposed [by] under this subsection
31 shall be credited to the pretrial account established under section 54-
32 56k.

33 (c) The court, after consideration of the recommendation of the
34 state's attorney, assistant state's attorney or deputy assistant state's
35 attorney in charge of the case, may, in its discretion, grant such
36 application. If the court grants such application, the court shall refer
37 such person (1) to the Court Support Services Division for
38 confirmation of the eligibility of the applicant, [and] (2) to the
39 Department of Mental Health and Addiction Services for evaluation
40 and determination of an appropriate drug education or substance
41 abuse treatment program for the first or second time such application
42 is granted, and (3) to a state licensed substance abuse treatment
43 program for evaluation and determination of an appropriate substance
44 abuse treatment program for the third time such application is
45 granted, except that, if such person is a veteran, the court may refer
46 such person to the Department of Veterans' Affairs or the United States
47 Department of Veterans Affairs, as applicable, for any such evaluation.
48 For the purposes of this subsection and subsection (d) of this section,
49 "veteran" means a person who is (A) a veteran, as defined in

50 subsection (a) of section 27-103, or (B) eligible to receive services from
51 the United States Department of Veterans Affairs pursuant to Title 38
52 of the United States Code.

53 (d) (1) (A) Upon confirmation of eligibility and receipt of the
54 evaluation and determination required [pursuant to] under subsection
55 (c) of this section, such person shall be placed in the drug education
56 and community service program and referred by the Court Support
57 Services Division for the purpose of receiving appropriate drug
58 intervention services or substance abuse treatment program services,
59 as recommended by the evaluation conducted pursuant to subsection
60 (c) of this section and ordered by the court, to the Department of
61 Mental Health and Addiction Services or to a state licensed substance
62 abuse treatment program for placement in the appropriate drug
63 education or substance abuse treatment program, except that, if such
64 person is a veteran, the division may refer such person to the
65 Department of Veterans' Affairs or the United States Department of
66 Veterans Affairs, subject to the provisions of subdivision (2) of this
67 subsection.

68 (B) Persons who have been granted entry into the drug education
69 and community service program for the first time shall participate in a
70 fifteen-week drug education program. Persons who have been granted
71 entry into the drug education and community service program for the
72 second time shall participate in either a fifteen-week drug education
73 program or a substance abuse treatment program of not less than
74 fifteen sessions, as ordered by the court based on the evaluation and
75 determination required under subsection (c) of this section. Persons
76 who have been granted entry into the drug education and community
77 service program for a third time shall be referred to a state licensed
78 substance abuse program for evaluation and participation in a course
79 of treatment as ordered by the court based on the evaluation and
80 determination required under subsection (c) of this section.

81 (C) Persons who have been granted entry into the drug education
82 and community service program shall also participate in a community

83 service program administered by the Court Support Services Division
84 pursuant to section 53a-39c, as amended by this act. Persons who have
85 been granted entry into the drug education and community service
86 program for the first time shall participate in the community service
87 program for a period of five days. Persons who have been granted
88 entry into the drug education and community service program for the
89 second time shall participate in the community service program for a
90 period of fifteen days. Persons who have been granted entry into the
91 drug education and community service program for a third or
92 additional time shall participate in the community service program for
93 a period of thirty days.

94 (D) Placement in the drug education and community service
95 program pursuant to this section shall not exceed one year. Persons
96 receiving substance abuse treatment program services in accordance
97 with the provisions of this section shall only receive such services at
98 state licensed substance abuse treatment program facilities that are in
99 compliance with all state standards governing the operation of such
100 facilities, except that, if such person is a veteran, such person may
101 receive services from facilities under the supervision of the
102 Department of Veterans' Affairs or the United States Department of
103 Veterans Affairs, subject to the provisions of subdivision (2) of this
104 subsection.

105 (E) Any person who enters the drug education and community
106 service program shall agree: [(A)] (i) To the tolling of the statute of
107 limitations with respect to such crime; [(B)] (ii) to a waiver of such
108 person's right to a speedy trial; [(C)] (iii) to complete participation in
109 the [ten-session drug intervention program, fifteen-session drug
110 intervention program or substance abuse treatment program, as
111 recommended by the evaluation conducted pursuant to subsection (c)
112 of this section, and] drug education and community service program,
113 as ordered by the court; [(D)] (iv) to commence participation in the
114 drug education and community service program not later than ninety
115 days after the date of entry of the court order unless granted a delayed
116 entry into the program by the court; and [(E)] (v) upon completion of

117 participation in the [pretrial] drug education and community service
118 program, to accept [(i)] (I) placement in a treatment program upon the
119 recommendation of a provider under contract with the Department of
120 Mental Health and Addiction Services or a provider under the
121 supervision of the Department of Veterans' Affairs or the United States
122 Department of Veterans Affairs, or [(ii)] (II) placement in a treatment
123 program that has standards substantially similar to, or higher than, a
124 program of a provider under contract with the Department of Mental
125 Health and Addiction Services, if the Court Support Services Division
126 deems it appropriate. [The Court Support Services Division shall
127 require as a condition of participation in the drug education program
128 that any person participating in the ten-session drug intervention
129 program or the substance abuse treatment program also participate in
130 the community service labor program, established pursuant to section
131 53a-39c, for not less than five days; and that any person participating
132 in the fifteen-session drug intervention program also participate in
133 said community service labor program, for not less than ten days.]

134 (2) The Court Support Services Division may only refer a veteran to
135 the Department of Veterans' Affairs or the United States Department of
136 Veterans Affairs for the receipt of services under the program if (A) the
137 division determines that such services will be provided in a timely
138 manner under standards substantially similar to, or higher than,
139 standards for services provided by the Department of Mental Health
140 and Addiction Services under the program, and (B) the applicable
141 department agrees to submit timely program participation and
142 completion reports to the division in the manner required by the
143 division.

144 (e) If the Court Support Services Division informs the court that
145 such person is ineligible for the program and the court makes a
146 determination of ineligibility or if the program provider certifies to the
147 court that such person did not successfully complete the assigned
148 program and such person did not request, or the court denied,
149 reinstatement in the program under subsection (i) of this section, the
150 court shall order the court file to be unsealed, enter a plea of not guilty

151 for such person and immediately place the case on the trial list.

152 (f) If such person satisfactorily completes the assigned program,
153 such person may apply for dismissal of the charges against such
154 person and the court, on reviewing the record of such person's
155 participation in such program submitted by the Court Support
156 Services Division and on finding such satisfactory completion, shall
157 dismiss the charges. If such person does not apply for dismissal of the
158 charges against such person after satisfactorily completing the
159 assigned program, the court, upon receipt of the record of such
160 person's participation in such program submitted by the Court
161 Support Services Division, may on its own motion make a finding of
162 such satisfactory completion and dismiss the charges. Upon motion of
163 such person and a showing of good cause, the court may extend the
164 placement period for a reasonable period [for] of time to allow such
165 person to complete the assigned program. A record of participation in
166 such program shall be retained by the Court Support Services Division
167 for a period of ten years from the date the court grants the application
168 for participation in the program.

169 (g) At the time the court grants the application for participation in
170 the pretrial drug education and community service program, [such]
171 any person ordered to participate in the drug education program shall
172 pay to the court a nonrefundable program fee of [three hundred fifty
173 dollars if such person is ordered to participate in the ten-session drug
174 intervention program or five hundred dollars if such person is ordered
175 to participate in the fifteen-session drug intervention program] six
176 hundred dollars. If the court orders participation in a substance abuse
177 treatment program, such person shall pay to the court a nonrefundable
178 program fee of one hundred dollars and shall be responsible for the
179 costs associated with such program. No person may be excluded from
180 any such program for inability to pay such fee or cost, provided (1)
181 such person files with the court an affidavit of indigency or inability to
182 pay, (2) such indigency or inability to pay is confirmed by the Court
183 Support Services Division, and (3) the court enters a finding thereof.
184 The court may waive all or any portion of such fee depending on such

185 person's ability to pay. If the court finds that a person is indigent or
186 unable to pay for a substance abuse treatment program, the costs of
187 such program shall be paid from the pretrial account established under
188 section 54-56k. If the court denies the application, such person shall not
189 be required to pay the program fee. If the court grants the application,
190 and such person is later determined to be ineligible for participation in
191 such pretrial drug education and community service program or fails
192 to complete the assigned program, the program fee shall not be
193 refunded. All program fees shall be credited to the pretrial account
194 established under section 54-56k.

195 (h) If a person returns to court with certification from a program
196 provider that such person did not successfully complete the assigned
197 program or is no longer amenable to treatment, the provider, to the
198 extent practicable, shall include a recommendation to the court as to
199 whether placement in a [ten-session drug intervention program, a
200 fifteen-session drug intervention] drug education program or
201 placement in a substance abuse treatment program would best serve
202 such person's needs. The provider shall also indicate whether the
203 current program referral was an initial referral or a reinstatement to
204 the program.

205 (i) When a person subsequently requests reinstatement into a drug
206 [intervention] education program or a substance abuse treatment
207 program and the Court Support Services Division verifies that such
208 person is eligible for reinstatement into such program and thereafter
209 the court favorably acts on such request, [such] any person reinstated
210 into the drug education program shall pay a nonrefundable program
211 fee of [one hundred seventy-five dollars if ordered to complete a ten-
212 session drug intervention program or] two hundred fifty dollars, [if
213 ordered to complete a fifteen-session drug intervention program, as
214 the case may be] and any person reinstated into a substance abuse
215 treatment program shall be responsible for the costs, if any, associated
216 with being reinstated into the treatment program. Unless good cause is
217 shown, such [fees] program fee shall not be waived. [If the court grants
218 a person's request to be reinstated into a substance abuse treatment

219 program, such person shall be responsible for the costs, if any,
220 associated with being reinstated into the treatment program.] All
221 program fees collected in connection with a reinstatement to a drug
222 [intervention] education program shall be credited to the pretrial
223 account established under section 54-56k. No person shall be permitted
224 more than two program reinstatements pursuant to this subsection.

225 (j) The Department of Mental Health and Addiction Services shall
226 develop standards and oversee appropriate drug education programs
227 that it administers to meet the requirements of this section and may
228 contract with service providers to provide such programs. The
229 department shall adopt regulations, in accordance with chapter 54, to
230 establish standards for such drug education programs.

231 (k) Any person whose employment or residence or schooling makes
232 it unreasonable to attend a drug [intervention] education program or
233 substance abuse treatment program in this state may attend a program
234 in another state that has standards similar to, or higher than, those of
235 this state, subject to the approval of the court and payment of the
236 program fee or costs as provided in this section.

237 Sec. 2. Section 53a-39c of the general statutes is repealed and the
238 following is substituted in lieu thereof (*Effective October 1, 2013*):

239 (a) There is established, within available appropriations, a
240 community service labor program for persons [charged with a]
241 convicted of a first violation of section 21a-267 or 21a-279 who have not
242 previously been convicted of a violation of section [21a-267,] 21a-277 []
243 or 21a-278. [or 21a-279.] Upon application by any such person for
244 participation in such program the court may grant such application
245 and, [(1) if such person has not previously been placed in the
246 community service labor program, the court may either suspend
247 prosecution and place such person in such program or, upon a plea of
248 guilty without trial where a term of imprisonment is part of a stated
249 plea agreement, suspend any sentence of imprisonment and make
250 participation in such program a condition of probation or conditional

251 discharge in accordance with section 53a-30; or (2) if such person has
252 previously been placed in such program, the court may,] upon a plea
253 of guilty without trial where a term of imprisonment is part of a stated
254 plea agreement, suspend any sentence of imprisonment and make
255 participation in such program a condition of probation or conditional
256 discharge in accordance with [said] section 53a-30. No person may be
257 placed in such program who has [twice] previously been placed in
258 such program.

259 (b) Any person who enters such program shall pay to the court a
260 participation fee of two hundred five dollars, except that no person
261 may be excluded from such program for inability to pay such fee,
262 provided (1) such person files with the court an affidavit of indigency
263 or inability to pay, (2) such indigency is confirmed by the Court
264 Support Services Division, and (3) the court enters a finding thereof.
265 All program fees collected under this subsection shall be deposited
266 into the alternative incarceration program account.

267 (c) The period of participation in the community service labor
268 program shall be thirty days.

269 [(c) Any person for whom prosecution is suspended and who is
270 placed in the community service labor program pursuant to subsection
271 (a) of this section shall agree to the tolling of the statute of limitations
272 with respect to such crime and to a waiver of such person's right to a
273 speedy trial. A pretrial community service labor program established
274 under this section for persons for whom prosecution is suspended
275 shall include a drug education component. If such person satisfactorily
276 completes the program of community service labor to which such
277 person was assigned, such person may apply for dismissal of the
278 charges against such person and the court, on reviewing the record of
279 such person's participation in such program and on finding such
280 satisfactory completion, shall dismiss the charges. If the program
281 provider certifies to the court that such person did not successfully
282 complete the program of community service labor to which such
283 person was assigned or is no longer amenable to participation in such

284 program, the court shall enter a plea of not guilty for such person and
285 immediately place the case on the trial list.

286 (d) The period of participation in a community service labor
287 program shall be a minimum of fourteen days for a first violation and
288 thirty days for a second violation involving a plea of guilty and
289 conviction.]

290 Sec. 3. Subsection (c) of section 54-56e of the general statutes is
291 repealed and the following is substituted in lieu thereof (*Effective*
292 *October 1, 2013*):

293 (c) This section shall not be applicable: (1) To any person charged
294 with a class A felony, a class B felony, except a violation of section 53a-
295 122 that does not involve the use, attempted use or threatened use of
296 physical force against another person, or a violation of section 14-227a,
297 subdivision (2) of subsection (a) of section 53-21, section 53a-56b, 53a-
298 60d, 53a-70, 53a-70a, 53a-70b, 53a-71, except as provided in subdivision
299 (5) of this subsection, 53a-72a, 53a-72b, 53a-90a, 53a-196e or 53a-196f,
300 (2) to any person charged with a crime or motor vehicle violation who,
301 as a result of the commission of such crime or motor vehicle violation,
302 causes the death of another person, (3) to any person accused of a
303 family violence crime as defined in section 46b-38a who (A) is eligible
304 for the pretrial family violence education program established under
305 section 46b-38c, or (B) has previously had the pretrial family violence
306 education program invoked in such person's behalf, (4) to any person
307 charged with a violation of section 21a-267 or 21a-279 who (A) is
308 eligible for the pretrial drug education and community service
309 program established under section 54-56i, as amended by this act, or
310 (B) has previously had the pretrial drug education program or the
311 pretrial drug education and community service program invoked [in]
312 on such person's behalf, (5) unless good cause is shown, to (A) any
313 person charged with a class C felony, or (B) any person charged with
314 committing a violation of subdivision (1) of subsection (a) of section
315 53a-71 while such person was less than four years older than the other
316 person, or (6) to any person charged with a violation of section 9-359 or

317 9-359a.

318 Sec. 4. Section 54-66a of the general statutes is repealed and the
319 following is substituted in lieu thereof (*Effective October 1, 2013*):

320 Any bail bond posted in any criminal proceeding in this state shall
321 be automatically terminated and released whenever the defendant: (1)
322 Is granted accelerated rehabilitation pursuant to section 54-56e, as
323 amended by this act; (2) is granted admission to the pretrial alcohol
324 education program pursuant to section 54-56g; (3) is granted
325 admission to the pretrial family violence education program pursuant
326 to section 46b-38c; (4) is granted admission to the community service
327 labor program pursuant to section 53a-39c, as amended by this act; (5)
328 is granted admission to the pretrial drug education and community
329 service program pursuant to section 54-56i, as amended by this act; (6)
330 has the complaint or information filed against such defendant
331 dismissed; (7) is acquitted; (8) is sentenced by the court; (9) is granted
332 admission to the pretrial school violence prevention program pursuant
333 to section 54-56j; (10) is charged with a violation of section 29-33 and
334 prosecution has been suspended pursuant to subsection (h) of section
335 29-33; or (11) is granted admission to the supervised diversionary
336 program for persons with psychiatric disabilities pursuant to section
337 54-56l.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	54-56i
Sec. 2	October 1, 2013	53a-39c
Sec. 3	October 1, 2013	54-56e(c)
Sec. 4	October 1, 2013	54-66a

Section 1	October 1, 2013	54-56i
Sec. 2	October 1, 2013	53a-39c
Sec. 3	October 1, 2013	54-56e(c)
Sec. 4	October 1, 2013	54-66a

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Mental Health & Addiction Serv., Dept.	GF - See Below	See Below	See Below

Municipal Impact: None

Explanation

The bill makes changes to the Department of Mental Health and Addiction Services (DMHAS) pretrial education programs. The program fee increase and the increase in program participants will result in a revenue gain to the Pretrial account, which will offset the cost in the bill to DMHAS as described below.

Based on 2012 data, approximately 7,000 additional participants would be eligible for the Pretrial program. While the fees for the program increase under the bill, it is likely that the average amount paid per participant (based on current trends) will be more than 70% lower at an estimated \$210.¹ The cost of the program to DMHAS per participant is \$338, resulting in a net loss of approximately \$128 per person or \$896,000 annually.

The table below shows the activity of the Pretrial account over the past five years. While the ending balance has been consistently decreasing, the difference between the cost of the program and the average cost paid will cause the balance to decrease more quickly than it otherwise would have.

¹Fees are reduced or waived for individuals who are considered indigent.

Pretrial Account Activity over the Past Five Fiscal Years

	FY 12 \$	FY 11 \$	FY 10 \$	FY 09 \$	FY 08 \$
Beginning Balance	2,090,997	3,742,455	5,245,356	7,339,807	6,647,782
Revenues	3,264,048	3,606,483	3,626,921	2,169,813	4,577,216
Total Available	5,355,045	7,348,938	8,872,277	9,509,620	11,224,998
Expenditures	3,917,023	5,257,941	5,129,822	4,264,264	3,885,191
Ending Balance	1,438,022	2,090,997	3,742,455	5,245,356	7,339,807

Source: Annual Report of the State Comptroller, Budgetary Basis 2008 - 2012.

The bill makes various other programmatic changes that have minimal fiscal impact.

There is no fiscal impact associated with expanding the eligibility for the pretrial accelerated rehabilitation program. It is expected that 2,100 offenders who are currently on regular probation would become eligible for these programs. As these offenders are already receiving services of comparable cost under regular probation, there are no additional costs to the Judicial Department associated with shifting them to accelerated rehabilitation.

House "A" removes the requirement for 85% of program fees to be deposited to the Department of Mental Health and Addiction Services (DMHAS) pretrial account and 15% to the Judicial Department alternative incarceration program account and instead requires all program fees be paid to the DMHAS pretrial account, as is current practice. This eliminates the revenue gain in the underlying bill to the Judicial Department and offsets the cost to DMHAS.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6699 (as amended by House "A")*****AN ACT CONCERNING PRETRIAL DIVERSIONARY PROGRAMS.****SUMMARY:**

This bill makes a number of changes to criminal court diversionary programs including:

1. renaming the pretrial drug education program the "pretrial drug education and community service program," expanding program eligibility, increasing certain fees, changing the treatment options that can be imposed, and altering community service requirements;
2. eliminating the pretrial diversion option of the community service labor program, which includes drug education, and altering eligibility for participation after a plea agreement; and
3. removing the bar on participation in accelerated rehabilitation (AR) for a person charged with 2nd degree sexual assault when there is good cause and the charge involves sexual intercourse with someone between ages 13 and 16 when the person charged is more than three but less than four years older.

*House Amendment "A" restores existing law which credits all pretrial drug education fees to the pretrial account, instead of crediting 15% of these fees to the alternative incarceration program account.

EFFECTIVE DATE: October 1, 2013

PRETRIAL DRUG EDUCATION AND COMMUNITY SERVICE PROGRAM

As under current law, participants in this program waive their right to a speedy trial and agree to a tolling of the statute of limitations. The court suspends prosecution and dismisses the charges upon successful completion of the program, which cannot exceed one year. A person who fails to complete the program or is not amenable to treatment and is not reinstated in the program is brought to trial.

Eligibility

Under current law, defendants charged with drug possession or paraphernalia crimes can participate in the pretrial drug education program. The bill also allows participation by someone charged with possession of less than 0.5 ounce of marijuana (which is punishable by only a fine). The law already requires referral of someone convicted of a third violation of this marijuana possession offense to participation in a drug education program at the person's expense.

Prior Participation

Currently, someone cannot participate in the program if he or she previously used the program or the community service labor program. The bill instead makes a person ineligible if he or she has twice participated in the new program or any combination of these programs and allows participation one additional time for good cause.

The bill eliminates a requirement that, in order to seal the court file, the person state under oath in open court or before a designated person under penalty of perjury that he or she has never used the program before.

Evaluations

When the court grants an application for the program, current law requires the court to refer the person to the Department of Mental Health and Addiction Services (DMHAS) for evaluation. The bill instead requires referral to:

1. DMHAS on a person's first or second application for evaluation and determination of an appropriate drug education or

substance abuse treatment program and

2. a state licensed substance abuse treatment program on a person's third application for evaluation and determination of an appropriate substance abuse treatment program.

By law, the court can refer a veteran to the state or federal Department of Veterans Affairs (DVA) for evaluation instead.

Treatment Programs

Under current law, participants are assigned to a 10- or 15-session drug intervention program or substance abuse treatment program of unspecified duration as recommended by the evaluation and ordered by the court. The bill instead requires someone participating for the:

1. first time to participate in a 15-week drug education program,
2. second time to participate in either a 15-week drug education program or substance abuse treatment program consisting of at least 15 sessions as ordered by the court based on the evaluation and determination, and
3. third time to be referred to a state licensed substance abuse program for evaluation and participation in a course of treatment as ordered by the court based on the evaluation and determination.

By law, the court can refer a veteran to the state or federal DVA for similar services.

The bill eliminates the 10-session intervention program.

Community Service

The bill alters community service requirements for participants. Current law ties community service requirements to the program the person is assigned to, requiring (1) at least five days participation in the community service program if assigned to the 10-session program or substance abuse treatment program and (2) at least 10 days if

assigned to the 15-session program.

The bill instead ties community service requirements to the number of times the person has used the pretrial program. It requires participation in the community service labor program for (1) five days for a first time participant, (2) 15 days for a second time participant, and (3) 30 days for those participating for a third or subsequent time.

Program Fees

The bill increases the nonrefundable:

1. evaluation fee from \$100 to \$150 and
2. program fee to \$600 from (a) \$350 for the 10-session program and (b) \$500 for the 15-session program.

It imposes a \$100 nonrefundable fee for the substance abuse treatment program. As under existing law, participants in this program must also pay its costs but cannot be excluded from it due to inability to pay.

By law, a person must also pay a \$100 application fee.

COMMUNITY SERVICE LABOR PROGRAM

Under current law, someone can participate in the community service labor program (1) as a diversion program where the court suspends prosecution for a drug possession or paraphernalia crime and dismisses the charge upon successful completion of the program or (2) after a plea agreement for one of these crimes that includes a prison term, where the court suspends the prison sentence and makes the program a condition of probation or conditional discharge. The bill eliminates the pretrial diversion option, which includes drug education, and alters eligibility for participation after a plea agreement.

Under current law, a person can participate after a plea agreement if he or she (1) is charged with drug possession or paraphernalia crimes,

(2) does not have prior convictions of these crimes or drug sale crimes, and (3) has not twice previously used the program. Instead, someone is eligible under the bill if he or she (1) is convicted of a first violation of a drug possession or paraphernalia crime and (2) has not previously been convicted of drug sale crimes. The bill also eliminates the option to use the program a second time.

The bill sets the length of the program at 30 days. Currently it is at least 14 days for a first violation and 30 days for a second violation involving a guilty plea.

ELIGIBILITY FOR ACCELERATED REHABILITATION

Under current law, someone charged with 2nd degree sexual assault is ineligible for AR. The bill makes someone charged with this crime eligible if he or she shows good cause and the charge involves sexual intercourse with someone between ages 13 and 16 when the defendant is more than three but less than four years older.

A person must meet the other AR eligibility requirements in current law. This means he or she must not have prior convictions of a crime or certain motor vehicle violations and cannot have been in AR before. The law gives the court discretion on whether to allow an eligible defendant to participate and the court may allow it if the court believes the defendant will probably not offend in the future.

As under existing law, a person is ineligible for AR if he or she is charged with any one of a number of crimes, including:

1. a class A felony;
2. a class B felony other than 1st degree larceny when the crime did not involve the use or threatened use of physical force against a person;
3. a class C felony unless good cause is shown;
4. drug paraphernalia or possession crimes when he or she is

eligible for the pretrial drug education program or has had that program invoked on his or her behalf;

5. a family violence crime when he or she is eligible for the pretrial family violence education program or has had that program invoked on his or her behalf before; or
6. certain other specified crimes.

BACKGROUND

AR

AR participants waive their right to a speedy trial and agree to a tolling of the statute of limitations. The court places them under the supervision of the Court Support Services Division for up to two years under whatever conditions it orders. If the defendant successfully completes the program, the court dismisses the charges and the record is erased. If the defendant violates a condition of the program, he or she is brought to trial on the original charges.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/19/2013)

Appropriations Committee

Joint Favorable

Yea 32 Nay 8 (05/16/2013)